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FISCAL IMPACT STATEMENT

LS 7036

BILL NUMBER: SB 548

NOTE PREPARED: Jan 3, 2013

BILL AMENDED:

SUBJECT: Various Utility Matters.

FIRST AUTHOR: Sen. Merritt

BILL STATUS: As Introduced

FIRST SPONSOR:

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: The bill provides that a public utility that provides water service or wastewater service may establish a utility system improvement charge (USIC). (Current law provides only for the establishment of a distribution system improvement charge (DSIC), and provides that a DSIC can be established only by a public utility that provides water service.) It provides that a public utility may petition for a change in its USIC every three months. (Current law provides that a public utility may petition for a change in its DSIC not more than once every 12 months.) It provides that a USIC may produce USIC revenues totaling up to 10% of a public utility's base revenue level. (Current law limits DSIC revenues to 5% of a public utility's base revenue.) It requires a public utility to annually reconcile the difference between its USIC revenues and costs. It repeals definitions related to DSICs. It makes conforming amendments.

The bill provides that a municipality or a municipally owned utility may not purchase the property of a utility company that provides water or sewer service (including a regional sewer and water district) unless the utility regulatory commission (IURC): (1) finds that the utility company has continued violations of the IURC's orders or the law regulating the utility company after the IURC has ordered compliance; or (2) finds after a review that the utility company has severe deficiencies that the utility company has failed to remedy. It provides that a utility may petition a court to stay proceedings of a municipality or a municipally owned utility to acquire the utility. It requires a municipality to submit the question of whether the municipality should acquire a utility to a public question.

Effective Date: Upon passage.

Explanation of State Expenditures: *IURC:* This bill could increase administrative expenditures for the

IURC. The bill provides that a public utility may petition for a change in its USIC every three months (instead of every 12 months as in current statute). Any increase in administrative costs to the IURC will be offset by public utility fees. The IURC and the Office of the Utility Consumer Counselor (OUCC) are funded by public utilities. Each public utility must pay equal to 0.15% of its gross intrastate operating revenues for the preceding calendar year. The actual fee is based on the budgets of IURC and OUCC. At the end of the fiscal year, if the total public utility fees in the Public Utility Fund plus the unspent balance of the Fund exceeds the total appropriations for the IURC and the OUCC (plus a \$250,000 contingency fund), then the IURC must compute each utility's share of the excess. This share is then deducted from any subsequent payment of the utility's public utility fees.

State & Local Expenditures: State and local governmental entities may be subject to any changes in utility rates caused by the provisions in this bill.

Explanation of State Revenues: *Utility Rates:* To the extent that the provisions of this bill increase utility rates, there could be an increase in Utility Receipts Tax (URT), Utility Services Use Tax (USUT), and Sales Tax collections. The amount of any increase is indeterminable.

The rate for both the URT and USUT is 1.4%. The URT is calculated on the gross receipts of all entities providing the retail sale of utility services in Indiana. The USUT is imposed on the retail consumption of utility services in Indiana. Both the URT and USUT are deposited in the state General Fund.

Sales Tax revenue is deposited in the state General Fund (99.848%), the Commuter Rail Service Fund (0.123%), and the Industrial Rail Service Fund (0.029%).

The bill provides that a utility may petition a court to stay proceedings of a municipal utility to acquire the utility.

Court Fee Revenue: If additional civil actions occur and court fees are collected, revenue to the state General Fund may increase. A civil costs fee of \$100 would be assessed when a civil case is filed, 70% of which would be deposited in the state General Fund if the case is filed in a court of record or 55% if the case is filed in a city or town court.

In addition, some or all of the judicial salaries fee (\$20), public defense administration fee (\$5), court administration fee (\$5), and the judicial insurance adjustment fee (\$1) are deposited into the state General Fund. Revenue from the pro bono services fee (\$1) is transferred by the State Auditor to the Indiana Bar Foundation for use to assist with pro bono legal services programs in Indiana. And proceeds from the automated record keeping fee (\$5) are deposited into the state User Fee Fund. Additional fees may be collected at the discretion of the judge and depending upon the particular type of case.

Explanation of Local Expenditures: The bill prohibits a municipal utility from purchasing the property of a utility company that provides water or sewer service. This could result in increase of operating expenditure of the municipal utility.

Also See Explanation of State Expenditures.

Explanation of Local Revenues: *Court Fee Revenue:* If additional civil actions occur, local governments would receive revenue from the following sources. The county general fund would receive 27% of the \$100

civil costs fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. Additional fees may be collected at the discretion of the judge, depending upon the particular type of case.

Persons filing a civil case are also required to pay the following fees that are deposited in local funds. The document storage fee (\$2) is deposited into the clerk record perpetuation fund.

The following fees are deposited into the general fund of the county in which the court is located:

- Document fees (\$1 per document) are charged for preparing transcripts or copies of record or certificate under seal.
- Service fee (\$10) collected from the filing party for each defendant beyond the first cited in the lawsuit.

State Agencies Affected: Indiana Utility Regulatory Commission, Indiana Office of Utility Consumer Counselor.

Local Agencies Affected: Municipal Utilities.

Information Sources:

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